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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SECOND AMENDMENT ARMS, et al,
Plaintiffs,
vs
CITY OF CHICAGO,
Defendant.

The discovery deposition of TONY KOLE,
taken in the above-entitled cause before Steven J.
Brickey, CSR, State of Illinois, at 30 North
LaSalle Street, Chicago, Illinois, on the 1st day
of August, A.D., 2018, commencing at 10:08 o'clock
a.m.

TONY KOLE
August 1, 2018

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 LAW FIRM OF DAVID G. SIGALE, P.C. 3 BY: MR. DAVID G. SIGALE 4 799 Roosevelt Road 5 Suite 207 6 Glen Ellyn, Illinois 60137 7 (630) 452-4547, 8 dsigale@sigalelaw.com 9 Appeared on behalf of the Plaintiffs; 10 CITY OF CHICAGO 11 BY: MR. JUSTIN TRESNOWSKI 12 30 North LaSalle Street 13 Room 1230 14 Chicago, Illinois 60602 15 (312) 744-4746, 16 justin.tresnowski@cityofchicago.org 17 Appeared on behalf of the Defendant; 18 REPORTED BY: 19 Steven J. Brickey, CSR 20 CSR License No. 084-004675 21 22 23 24</p>	<p style="text-align: right;">Page 4</p> <p>1 (Witness sworn.) 2 TONY KOLE 3 called as a witness herein, having been first duly 4 sworn, was examined and testified as follows: 5 EXAMINATION 6 BY MR. TRESNOWSKI: 7 Q. Can you state and spell your full 8 name for the record. 9 A. Tony Kole, T-O-N-Y, K-O-L-E. 10 Q. And what is your residential 11 address? 12 A. 1120 West Northwest Highway, 13 Arlington Heights, Illinois. 14 Q. That's actually -- I grew up in that 15 area. So I know that is -- can be a long commute. 16 A. Sure. 17 Q. How long does it take you to get 18 into the city? How long did it take you to get 19 here today? 20 A. Well, today, it took well over an 21 hour. 22 Q. Do you know how many miles that is 23 from the city? 24 A. It's about 35, yeah.</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX 2 THE WITNESS: TONY KOLE 3 PAGE 4 Direct Examination by Mr. Tresnowski..... 4 5 Cross-Examination by Mr. Sigale..... 39 6 Redirect Examination by Mr. Tresnowski.... 45 7 Recross-Examination by Mr. Sigale..... 47 8 9 10 EXHIBITS 11 12 Marked for 13 Identification 14 Exhibit No. 1 13 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: right;">Page 5</p> <p>1 Q. You recently moved to that address, 2 correct? 3 A. Yes. 4 Q. Where were you before? 5 A. For prior to that, I lived in 6 Waukegan for about a year, year-and-a-half, I 7 think, and prior to Waukegan, I resided in Chicago 8 for approximately 35 years. 9 Q. Okay. So you moved from Chicago to 10 Waukegan? 11 A. Correct. 12 Q. What year? 13 A. I want to say 2015. 14 Q. We met outside. 15 A. Sure. 16 Q. My name is Justin Tresnowski. I 17 represent the City of Chicago in this case Second 18 Amendment Arms versus City of Chicago. 19 A. Okay. 20 Q. My colleague, Tom McNulty, might 21 stop by. He might not. 22 A. Okay. 23 Q. If some other guy walks in, that's 24 probably who it is.</p>

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<p style="text-align: right;">Page 6</p> <p>1 A. All right.</p> <p>2 Q. You've been deposed before,</p> <p>3 correct --</p> <p>4 A. Yes.</p> <p>5 Q. -- in lawsuits involving Second</p> <p>6 Amendment claims, firearms?</p> <p>7 A. Yes.</p> <p>8 Q. How many times have you been</p> <p>9 deposed?</p> <p>10 A. Twice, if not three times.</p> <p>11 Q. So you're pretty familiar with the</p> <p>12 process. I'll just go through some of the ground</p> <p>13 rules. I'm going to ask you a series of</p> <p>14 questions.</p> <p>15 A. Sure.</p> <p>16 Q. You know you're under oath just like</p> <p>17 you would be at trial?</p> <p>18 A. Okay.</p> <p>19 Q. If you don't understand my question,</p> <p>20 just let me know.</p> <p>21 A. Okay.</p> <p>22 Q. I can rephrase it to help you</p> <p>23 understand.</p> <p>24 A. Okay.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. You're not --</p> <p>2 A. No.</p> <p>3 Q. -- under the influence of any drugs</p> <p>4 right now?</p> <p>5 A. No.</p> <p>6 Q. So there's no reason you wouldn't be</p> <p>7 able to answer truthfully?</p> <p>8 A. That's correct. Yeah, there is no</p> <p>9 reason.</p> <p>10 Q. Nothing that would impair your</p> <p>11 memory?</p> <p>12 A. No. No. Other than old age.</p> <p>13 Q. You're a plaintiff in this case,</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. Do you know the other plaintiffs in</p> <p>17 this case?</p> <p>18 A. I know of them. I don't know -- I'm</p> <p>19 not acquainted with any of them.</p> <p>20 Q. Okay. So you're not acquainted with</p> <p>21 Joseph Franzese?</p> <p>22 A. No.</p> <p>23 Q. Or with his entity Second Amendment</p> <p>24 Arms?</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. For the court reporter's benefit,</p> <p>2 try to answer orally instead of nodding your</p> <p>3 head --</p> <p>4 A. Sure.</p> <p>5 Q. -- just so he can get it on the</p> <p>6 record.</p> <p>7 A. Okay. Sure.</p> <p>8 Q. We'll both try not to interrupt or</p> <p>9 talk over each other so he can get a clean record</p> <p>10 of what we're saying.</p> <p>11 A. Okay.</p> <p>12 Q. If you need to take a break at any</p> <p>13 time, just let me know.</p> <p>14 A. Okay.</p> <p>15 Q. Mr. Sigale might make objections,</p> <p>16 but unless he instructs you otherwise, you can</p> <p>17 answer the question --</p> <p>18 A. Okay.</p> <p>19 Q. -- when he objects. I know counsel</p> <p>20 mentioned that you recently had surgery.</p> <p>21 A. Correct.</p> <p>22 Q. Are you currently under the</p> <p>23 influence of any -- any drugs?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 9</p> <p>1 A. No, I've heard of them, but I'm not</p> <p>2 acquainted with them.</p> <p>3 Q. And you don't know anything about</p> <p>4 Second Amendment Arms' plans to open a gun store</p> <p>5 in Chicago?</p> <p>6 A. No, I don't know anything about</p> <p>7 their plans.</p> <p>8 Q. So why are you suing the City?</p> <p>9 A. At the time, I was a resident of the</p> <p>10 city and specifically the issue of -- I think some</p> <p>11 of the other issues had been resolved in the</p> <p>12 courts, specifically conceal carry, you know, the</p> <p>13 right to possess handguns in the home, so on and</p> <p>14 so forth, but with respect to this lawsuit it's</p> <p>15 the possession of laser sight accessories and that</p> <p>16 is something that I am contesting as not being</p> <p>17 lawful, if you will.</p> <p>18 Q. So you're interested in purchasing</p> <p>19 laser sight accessories?</p> <p>20 A. Purchasing and possessing.</p> <p>21 Q. Purchasing and possessing --</p> <p>22 A. Yes.</p> <p>23 Q. -- within the City of Chicago?</p> <p>24 A. Sure. Absolutely.</p>

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<p style="text-align: right;">Page 14</p> <p>1 device --</p> <p>2 A. Correct.</p> <p>3 Q. -- you were referring to previously?</p> <p>4 A. Correct.</p> <p>5 Q. And you just said that that laser</p> <p>6 sight can be attached to other firearms that you</p> <p>7 have besides the ones listed here?</p> <p>8 A. Correct, provided that those</p> <p>9 firearms have accessory rails because the</p> <p>10 light/laser combo on the TRL-2 attaches to an</p> <p>11 accessory rail.</p> <p>12 Q. Do all those firearms have that</p> <p>13 rail?</p> <p>14 A. Yes, all these firearms listed,</p> <p>15 including the one I no longer own, do have those</p> <p>16 rails, correct.</p> <p>17 Q. And what about the other 13 to 17</p> <p>18 firearms that you own?</p> <p>19 A. Yes, they do. They're standard --</p> <p>20 it's what's called mill standard 1913 Picatinny</p> <p>21 rail and so the Streamline TRL-2 will mount to any</p> <p>22 firearm that has that rail. It also comes with</p> <p>23 additional adapters to mount to other firearms</p> <p>24 such as Glock's that don't have a standard -- mill</p>	<p style="text-align: right;">Page 16</p> <p>1 is sought after. Sometimes I'll order things on</p> <p>2 Amazon if I don't need it right away or I don't</p> <p>3 want it right away. Sometimes I'm willing to pay</p> <p>4 more to have it right away. It just varies. For</p> <p>5 an example, let me give you a great example.</p> <p>6 If I did -- because I do have a</p> <p>7 valid conceal carry permit. So if I were to -- if</p> <p>8 it were legal to carry or to have a laser sight</p> <p>9 accessory mounted to my carry pistol and while in</p> <p>10 the City of Chicago something happens, I drop it,</p> <p>11 it breaks, it no longer functions and, to me, it's</p> <p>12 a critical component of my defensive weapon</p> <p>13 system, I may be inclined to go and buy one</p> <p>14 because I have an immediate need for it and my</p> <p>15 immediate need trumps the fact that I'm going to</p> <p>16 save 20 percent by ordering it from Amazon, for</p> <p>17 example. So I think there is many different</p> <p>18 scenarios.</p> <p>19 For me being kind of a guy's</p> <p>20 guy, buying things, having them -- you know, the</p> <p>21 tactile experience and having them right away and</p> <p>22 walking out of the store with them is -- is part</p> <p>23 of my makeup. You know, on the other hand,</p> <p>24 sometimes I like to save money. But you have to</p>
<p style="text-align: right;">Page 15</p> <p>1 standard 1913 rail. So the Streamline TRL-2 is</p> <p>2 adaptable to many types of firearms regardless of</p> <p>3 whether the accessory rail has been standardized</p> <p>4 or not.</p> <p>5 Q. So are you currently looking to</p> <p>6 purchase another laser sight?</p> <p>7 A. Absolutely.</p> <p>8 Q. And you wish to purchase it within</p> <p>9 the City of Chicago?</p> <p>10 A. It would -- I would not be opposed</p> <p>11 to it. It would be convenient considering I spend</p> <p>12 a lot of time here during the week. Sometimes</p> <p>13 it's easier to make a stop on the way home as</p> <p>14 opposed to going home and then going out to the</p> <p>15 local gun store and driving however many miles.</p> <p>16 It's just -- for me, it would be convenient.</p> <p>17 Q. Can you buy laser sights on the</p> <p>18 Internet?</p> <p>19 A. Yes.</p> <p>20 Q. Would that be more convenient than</p> <p>21 buying it at a brick and mortar store?</p> <p>22 A. It can be. I'm sure it can be.</p> <p>23 Sometimes, you know, like most people the instant</p> <p>24 gratification, you know, factor is something that</p>	<p style="text-align: right;">Page 17</p> <p>1 make that decision is this a critical component?</p> <p>2 And in this case, it would be because it's part of</p> <p>3 a defensive system and if part of that system</p> <p>4 failed, I'd want to rectify that failure as soon</p> <p>5 as possible and if I were able to just go into</p> <p>6 Dick's Sporting Goods, for example, or what have</p> <p>7 you and just purchase one over-the-counter and be</p> <p>8 about my business that would be great as opposed</p> <p>9 to just ordering it on Amazon or eBay or from any</p> <p>10 of the online retailers and waiting three to five</p> <p>11 days, you know, it may not satisfy that urgent</p> <p>12 need if I were to do it that way.</p> <p>13 Q. Are you aware of brick and mortar</p> <p>14 stores that are closer to your current home than</p> <p>15 the 35 miles that it would take to get to Chicago</p> <p>16 that -- sorry -- that sell firearms? Are you</p> <p>17 aware -- I guess my question is --</p> <p>18 A. Sure.</p> <p>19 Q. -- you said that you're 35 miles</p> <p>20 from the city. Are you aware of brick and mortar</p> <p>21 firearm stores within a 35-mile radius?</p> <p>22 A. Sure. I'm sure they exist, but,</p> <p>23 again, going back to the scenario I just played</p> <p>24 out. If I were, you know, in the City because my</p>

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<p style="text-align: right;">Page 26</p> <p>1 skill of shooting with iron sights. So that being 2 the case, the laser itself as -- as an improvement 3 tool, in my opinion, does not degrade the 4 fundamental skill of shooting and aiming without a 5 laser sight. I think there is other benefits that 6 it does provide. Being more accurate is one of 7 them. I mean, I think that's part and parcel to 8 what it is designed to do, but there are other 9 features that come with utilizing a laser 10 accessory sight on a firearm. 11 BY MR. TRESNOWSKI: 12 Q. What are those other features? 13 A. Well, for example, if we compare 14 using iron sights, a standard firearm has a front 15 sight and a rear sight. The distance between the 16 two are called the sight radius. The human eye 17 can only focus on one distance at a time and so 18 what ends up happening is as you're focusing on 19 the front sight, your rear sight is somewhat 20 blurry and then it creates sort of a tunnel vision 21 and it's hard to maintain situational awareness of 22 your periphery. 23 One of the important things that 24 a laser sight allows you to do is overcome that --</p>	<p style="text-align: right;">Page 28</p> <p>1 my house for example, in the dark with iron 2 sights, my focus is to get my point of aim and 3 point of impact where it needs to be, not on the 4 aggressor's hands. I think that's clearly -- you 5 know, it's one of the reasons that when you see 6 police apprehending a subject, one of the first 7 things they say is "Show me your hands. Show me 8 your hands" and it's really hard, I think, to be 9 able to focus on -- you know, to fight that human 10 effect that your eye has when it's trying to focus 11 between two distances and also try to maintain 12 awareness of what someone's hands might be doing 13 or if they have accomplices, for example. It's 14 really hard to do. 15 With a laser, you can point, 16 aim. I'm confident that if something were to 17 happen, if this person were to reach for a gun or 18 a knife or a blunt object or something, I don't 19 have to -- I don't have to think and get my body 20 to do what it is supposed to do under duress. I 21 know that laser is pointed on target and if there 22 is a movement where, you know, the aggressor goes 23 for a gun, I can easily squeeze the trigger and 24 defend myself and I think that's very critical.</p>
<p style="text-align: right;">Page 27</p> <p>1 that human deficiency, if you will, by -- if I had 2 an attacker, an aggressor, if I were to put -- if 3 I were to point my laser on my attacker, I don't 4 sacrifice any of the situational awareness. I'm 5 able to maintain a point of aim while 6 simultaneously visually assessing body language, 7 body movement, movement of others in the area, if 8 you will. 9 So it allows me as a defender in 10 that situation, under stress caused by adrenaline 11 and increased heart rate, to overcome the loss of 12 the fine motor skills that that would do and a 13 laser, I think, is a great tool for that because 14 I'm able to maintain more control in that 15 situation had I not had a laser sight because my 16 brain would be focusing on the -- the conflicting 17 visual focus between the front and the rear sight 18 and then not being able to focus on other things 19 around me which can also be very critical in a -- 20 in a situation where you're under duress like 21 that. 22 I mean, clearly, hands are an 23 indicator of action that someone may take and if I 24 were to hold somebody at gunpoint, an intruder in</p>	<p style="text-align: right;">Page 29</p> <p>1 I think a lot of the times when 2 we talk about these things and what is really not 3 taken into account is the effect that stress has 4 on the body, what it does to my fine motor skills, 5 for example. When your body is under stress, 6 you're not going to be able to put a key in a 7 keyhole. You know, you're not going to unlock 8 your car. You're going to fumble and you're going 9 to get it in there very clumsily but you'll get it 10 in there eventually and, you know, if this is 11 happening to you under stress, now I have to 12 utilize fundamental iron sights to be able to stop 13 that threat. I -- I don't think that's of any 14 benefit to me or to anybody for that matter over 15 having a laser sight accessory. 16 Q. Would you say that you feel more 17 confident in your ability to shoot a firearm when 18 you have a laser sight attached to it? 19 MR. SIGALE: I'm just going to 20 object as to vagueness. You mean are you 21 referring to any possible situation? Like are you 22 equalizing being at a firing range versus having 23 an attacker come at you? That's my objection. If 24 you understand, answer it, but --</p>

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<p style="text-align: right;">Page 30</p> <p>1 BY THE WITNESS:</p> <p>2 A. I understand it to a degree. With</p> <p>3 respect to let's use the word confidence at the</p> <p>4 range -- at the range, it's a training tool. Does</p> <p>5 it make me feel more confident that I'm going to</p> <p>6 train better? I don't think it does -- I don't</p> <p>7 think it has an effect on confidence, but in a</p> <p>8 situation where I hope to never find myself</p> <p>9 defending my life or my family's life, would it</p> <p>10 make me feel more confident in succeeding -- in</p> <p>11 achieving success in the defense of myself, my</p> <p>12 life or my family? Absolutely. Absolutely.</p> <p>13 Because it's one less thing to worry about.</p> <p>14 And it's really hard to say how</p> <p>15 one is going to react when they're under stress,</p> <p>16 when they're under attack. They think -- human</p> <p>17 instincts kick in and they take over. You know,</p> <p>18 the one -- it's one reason why we train because</p> <p>19 when we -- when these situations present</p> <p>20 themselves, all we have to rely on is our training</p> <p>21 and if I go to the range and I train with a laser</p> <p>22 or I train without a laser, I'm just creating</p> <p>23 greater chances and odds of surviving a terrible</p> <p>24 situation. Because, in that case, that's what I'm</p>	<p style="text-align: right;">Page 32</p> <p>1 flashlight doesn't work, then, yes, absolutely, I</p> <p>2 better be able to defend myself with an iron --</p> <p>3 iron sights.</p> <p>4 I don't think anybody in their</p> <p>5 right mind or any instructor would teach a student</p> <p>6 to only train with a laser sight, for example,</p> <p>7 because it's not a fundamental -- it's an</p> <p>8 accessory. So it's not a fundamental part of the</p> <p>9 design of the firearm and that fundamental design</p> <p>10 is the iron sights. So, absolutely, you need to</p> <p>11 train because that's your -- that's your backup.</p> <p>12 If my laser fails, I have something to revert to.</p> <p>13 Now, if somebody were to use a</p> <p>14 laser sight without any backup iron sights, I</p> <p>15 think that's ridiculous and I don't think anybody</p> <p>16 would do that. You know, I mean, you're putting</p> <p>17 your life in the hands of an electronic device</p> <p>18 that can fail for a number of reasons.</p> <p>19 Q. What -- what would cause a laser</p> <p>20 device to fail?</p> <p>21 A. Well, if -- if it was damaged, if</p> <p>22 the batteries are dead. You know, lasers for the</p> <p>23 most part utilize a lot of energy and batteries</p> <p>24 really don't store too much. So that could cause</p>
<p style="text-align: right;">Page 31</p> <p>1 going to rely on.</p> <p>2 BY MR. TRESNOWSKI:</p> <p>3 Q. In a situation where you felt like</p> <p>4 you had to defend your own personal safety and use</p> <p>5 a firearm to do so, would you be able to defend</p> <p>6 yourself if your laser sight happened to be broken</p> <p>7 on your firearm?</p> <p>8 A. Absolutely. We -- I'm one -- and</p> <p>9 there are many people out there trained to their</p> <p>10 point of failure. You know, I've also -- one of</p> <p>11 the sayings I've always had is two is one and one</p> <p>12 is none. You know, I'll carry two guns because if</p> <p>13 one gun fails, I have a backup. I'll carry two</p> <p>14 flashlights. If one fails, I have a back up. I</p> <p>15 take that into my work. I have two -- I have two</p> <p>16 sets of everything in my tool bag because if one</p> <p>17 fails, I still have another one.</p> <p>18 So just because somebody has</p> <p>19 designed an accessory to make you more accurate or</p> <p>20 help you in training, if -- if you rely on that as</p> <p>21 your sole means of defense, in this case the</p> <p>22 laser, then you've failed from day one. You train</p> <p>23 for every possible scenario with a firearm. If my</p> <p>24 laser doesn't work, if my batteries run out, if my</p>	<p style="text-align: right;">Page 33</p> <p>1 it to fail. It could -- it could not have been</p> <p>2 attached correctly, secured properly to the</p> <p>3 firearm and the recoil of the firearm could cause</p> <p>4 it to dislodge, for example. That's a failure.</p> <p>5 The laser may work, the batteries may be good, but</p> <p>6 if it's sitting on the ground, it's useless. So</p> <p>7 there is many reasons for failure. I think those</p> <p>8 are just a few.</p> <p>9 Q. But it's your position if the laser</p> <p>10 sight failed, the laser sight wouldn't be</p> <p>11 necessary to defend yourself, you would still be</p> <p>12 able to defend yourself in that situation?</p> <p>13 A. Sure. And if my firearm failed, I</p> <p>14 would use whatever I could to defend myself. But</p> <p>15 the point is in a situation -- you know, if you're</p> <p>16 put in a situation where you have to defend</p> <p>17 yourself, you want to have every tool available to</p> <p>18 you to do it as safely, easily and effortlessly as</p> <p>19 possible. You know, if I'm being attacked by</p> <p>20 somebody with a machete, for example, I'd prefer</p> <p>21 to reach for my pistol instead of the baseball bat</p> <p>22 next to the door because I don't want to combat</p> <p>23 the guy with a baseball bat. I want to stop the</p> <p>24 threat as quick as I can.</p>

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1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 SECOND AMENDMENT ARMS, et)
5 al,)
6 Plaintiffs,)
7 vs) No. 10-cv-4257
8)
9 CITY OF CHICAGO,)
10 Defendant.)
11 I hereby certify that I have read
12 the foregoing transcript of my deposition given on
13 August 1, 2018, at the time and place aforesaid,
14 consisting of Pages 1 through 49, inclusive, and I
15 do again subscribe and make an oath that the same
16 is a true, correct and complete transcript of my
17 deposition so given as aforesaid.
18 please check one:
19 _____ I have submitted errata sheet(s)
20 _____ No corrections were noted
21 _____
22 TONY KOLE
23
24 SUBSCRIBED AND SWORN TO
before me this _____ day
of _____, A.D., 2018.

Notary Public

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1 WITNESS ERRATA SHEET
2
3 I wish to make the following changes for the
4 following reasons:
5 Page Line
6 Change: _____
7 Reason: _____
8 Change: _____
9 Reason: _____
10 Change: _____
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21 Reason: _____
22 Change: _____
23 Reason: _____
24 (Signed) _____

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1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 I, Steven Brickey, Certified Shorthand
5 Reporter, do hereby certify that on the 1st day of
6 August, A.D., 2018, the deposition of the witness,
7 TONY KOLE, called by the Defendant, was taken
8 before me, reported stenographically, and was
9 thereafter reduced to typewriting under my
10 direction.
11 The said deposition was taken at 30 North
12 LaSalle Street, Chicago, Illinois, and there were
13 present counsel as previously set forth.
14 The said witness, TONY KOLE, was first duly
15 sworn to tell the truth, the whole truth, and
16 nothing but the truth, and was then examined upon
17 oral interrogatories.
18 I further certify that the foregoing is a
19 true, accurate, and complete record of the
20 questions asked of and answers made by the said
21 witness, TONY KOLE, at the time and place
22 hereinabove referred to.
23 The signature of the witness, TONY KOLE, was
24 reserved by agreement.
The undersigned is not interested in the

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1 within case, nor of kin or counsel to any of the
2 parties.
3 Witness my official signature in and for
4 Cook County, Illinois, on this _____ day of
5 _____, A.D., 2018.
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STEVEN BRICKEY, CSR
8 West Monroe Street
Suite 2007
Chicago, Illinois 60603
Phone: (312) 419-9292
CSR No. 084-004675

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